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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/812,180

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EXAMINER

GREENHUT, CHARLES N

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/812,180	Applicant(s) POWELL ET AL.	
	Examiner Charles N. Greenhut	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/26/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

**I. Drawings**

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the
  - 1.1. one cargo volume larger than the other, of claims 5 and 13,
  - 1.2. second partition of claims 6 and 14,
  - 1.3. belt of claims 7 and 15, and
  - 1.4. chain of claims 8 and 16,must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

## **II. Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 4 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1.1. Claims 4 and 12 recite the limitation "partitions" (note plurality) in line 1. There is insufficient antecedent basis for this limitation in the claim.

1.2. Claims 4 and 12 recite the limitation "the opposing sides" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear if applicant is referring to the opposing side walls.

## **III. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 1-4 and 8 is/are rejected under 35 U.S.C. 102(b) as being anticipated by PAPPS (US 4,261,682 A).

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- 1.1. With respect to claims 1-4, and 8, PAPPS discloses a truck body (1), front (3) rear (4) and side (Col. 2 Li. 50) wall, partition (7), extending front to rear, approximately midway between the sidewalls (Col. 2 Li. 32-34) and dividing the cargo area into two compartments, doors (27) for each cargo volume having a width parallel to the rear axle (Fig. 2), and a first and second chain conveyor (11)
2. Claim(s) 1-5 and 7-8 is/are rejected under 35 U.S.C. 102(b) as being anticipated by SWENSON (US 3,377,030 A)

2.1. With respect to claims 1-5, and 7-8, SWENSON discloses a truck body (15), front (23) rear (22) and side (18)/(19) wall, partition (41), extending front to rear, approximately midway between the sidewalls (Col. 2 Li. 51-53) and dividing the cargo area into two unequal (Col. 2 Li. 38-39) compartments, doors (27')/(28') for each cargo volume having a width parallel to the rear axle (Fig. 2), and a first (32) and second (32') belt/chain conveyor (Note: conveyors (32) & (32') could properly be considered as "utilizing a belt" –defined as a flexible band or "utilizing a chain" – defined as a flexible series of links (e.g., (35)/(35'))).

#### **IV. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 5-6 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over PAPPS in view of PELLEGRINI (US 5,458,452 A).

- 1.1. With respect to claims 5 and 6, PAPPS fails to disclose compartments of unequal size and a second partition. PELLEGRINI teaches compartments of unequal size and a second partition (Fig. 2). It would have been obvious to one of ordinary skill in the art to modify PAPPS with unequal size compartments in order to store greater amounts of a particular cargo. It would have been obvious to one of ordinary skill in the art to modify PAPPS with a second partition in order to separately store a third type of cargo.
2. Claim(s) 9-13, and 15-17 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over SWENSON in view of WYSOCKI (US 6,325,587 B1).

2.1. With respect to claims 9-13, and 15-16, SWENSON discloses a truck body (15), front (23) rear (22) and side (18)/(19) wall, partition (41), extending front to rear, approximately midway between the sidewalls (Col. 2 Li. 51-53) and dividing the cargo area into two unequal (Col. 2 Li. 38-39) compartments, doors (27')/(28') for each cargo volume having a width parallel to the rear axle (Fig. 2), and a first (32) and second (32') belt/chain conveyor (Note: conveyors (32) & (32') could properly be considered as "utilizing a belt" –defined as a flexible band or "utilizing a chain" – defined as a flexible series of links (e.g., (35)/(35')))). SWENSON fails to disclose that the partition wall is taller than the opposing side walls. Making the partition wall height greater than that of the side walls is well-known and commonly practiced in the art. The technique is commonly used during overhead loading in order to deflect discrete materials into separate containers. Two examples of this are shown in WYSOCKI at (130) and (162). It would have been obvious to one of ordinary skill in

the art to modify SWENSON with the enlarged partition wall of WY SOCKI in order to deflect discrete materials into separate containers.

2.2. With respect to claim 17, WY SOCKI is silent as to the optimal height differential between the sidewalls and partition wall. One having ordinary skill in the art would recognize that the optimal height differential would be based on the size of the cargo areas and the material to be loaded. It would have been obvious to one of ordinary skill in the art to make the partition at least 12 inches taller than the sidewalls in order to optimize overhead transfer of discrete loads.

3. Claim(s) 14 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over SWENSON in view of WY SOCKI and further in view of PELLEGRINI.

3.1. With respect to claim 14, SWENSON fails to disclose a second partition. PELLEGRINI teaches a second partition. It would have been obvious to one of ordinary skill in the art to modify SWENSON in view of WY SOCKI with a second partition in order to separately store a third type of cargo.

## **V. Conclusion**

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.

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3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG

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